

Exhibit 51

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10
11 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON
12 **AT YAKIMA**

13 STATE OF WASHINGTON, et
al.,

14 Plaintiffs,

15 v.

16 DONALD J. TRUMP, et al.,

17 Defendants.
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21
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NO. 1:20-cv-03127-SAB

SUPPLEMENTAL
DECLARATION OF
MICHIGAN SECRETARY OF
STATE JOCELYN BENSON IN
SUPPORT OF PLAINTIFF
STATES' MOTION FOR
PRELIMINARY INJUNCTION

1 I, Jocelyn Benson, declare as follows:

2 1. I am over the age of 18, am competent to testify as to the matters
3 herein, and make this declaration based on my personal knowledge.

4 2. I am the elected Secretary of State for the State of Michigan. *See*
5 Mich. Const. 1963, Art. 5, § 21.

6 3. By statute, I am Michigan's Chief Election Officer with supervisory
7 control over local election officials in the performance of their duties. *See* Mich.
8 Comp. Laws § 168.21. In that capacity, I also oversee the Bureau of Elections,
9 which is responsible for the integrity of the state's elections by ensuring election
10 laws are followed, training and advising 1,603 clerks, compiling election results
11 for federal and state elections and providing instructional materials.

12 4. Under Michigan's Constitution, "every citizen of the United States
13 who is an elector qualified to vote in Michigan shall have . . . the right, once
14 registered, to vote an absent voter ballot without giving a reason, during the forty
15 (40) days before an election, and the right to choose whether the absent voter
16 ballot is applied for, received and submitted in person or by mail." Const. 1963,
17 art 2, §4(1)(g).

18 5. An application for an absent voter ballot may be made by a written
19 request signed by the voter, on an absent voter ballot application form provided
20 by the clerk, or on a federal postcard application. MCL 168.759. The application
21 may be returned by mail or by delivering it in-person. *Id.*
22

1 6. Requests to have an absent voter ballot mailed must be received by
2 the local clerk no later than 5:00 p.m. the Friday before the election. MCL
3 168.759.

4 7. Mailed ballots must reach the clerk before the close of the polls at
5 8:00 p.m. on election day to be counted. MCL 168.764a; MCL 168.720.

6 8. Mailed ballots that reach the clerk after the polls close on election
7 day are rejected and may not be counted, even if they were postmarked before
8 Election Day.

9 9. Local clerks in Michigan use both First Class and marketing mail to
10 mail ballots. Historically, the USPS has worked with the state and clerks to
11 ensure that election mail is marked and receives expedited service regardless of
12 the class of mail.

13 10. In 2019 and 2020, the state, clerks, and print vendors have expended
14 significant time and money on ensuring absent voter ballot envelopes meet USPS
15 standards for election mail. Since a statewide election in March 2020, the state
16 has allocated more than \$2 million for the purchase of absent voter ballot
17 envelopes that meet these standards. The state led this effort largely at the urging
18 of the USPS. The USPS did not request that absent voter ballot envelopes be sent
19 only by First Class mail as part of this process. Rather, the state's expectation
20 was that USPS would continue to provide expedited service for election mail
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22

1 regardless of class, and that increased statewide compliance with USPS design
2 standards for election mail would facilitate this service.

3 11. Voters pay First Class to have ballots returned, though some local
4 jurisdictions prepay for postage.

5 12. On July 29, 2020, Mr. Thomas Marshall, General Counsel for the
6 USPS, sent a letter to me, Michigan Secretary of State Jocelyn Benson, to notify
7 me that “certain deadlines for requesting and casting mail-in ballots [in
8 Michigan] are incongruous with the Postal Service’s delivery standards.”
9 Accordingly, Mr. Marshall notified me that “this mismatch creates a risk that
10 ballots requested near the deadline under state law will not be returned by mail
11 in time to be counted under your laws as we understand them.”

12 13. Mr. Marshall also advised me that, as a result of the Postal Service’s
13 delivery standards, to the extent the mail is used to transmit ballots to and from
14 voters, “there is significant risk that, at least in certain circumstances, ballots may
15 be requested in a manner that is consistent with your election rules and returned
16 promptly, and yet not be returned in time to be counted.”

17 14. The scourge of COVID-19 in Michigan has increased reliance on
18 voting by mail by more than 50 percent. In Michigan’s previous statewide
19 election in March, under 40 percent of voters cast ballots by mail. In the August
20 election, 65 percent of votes were cast by mail (a record for a statewide election).

1 15. The August election set a state record for number of votes by mail
2 (1.6 million) despite having much lower turnout than November presidential
3 elections. Although we have not received statewide empirical data, my
4 department has received reports from several clerks that ballots they put in the
5 mail took several weeks to reach voters.

6 16. Michigan held its primary on August 4, 2020, and local election
7 officials had to reject at least 8,700 ballots that arrived after election day. Of
8 these ballots, at least 3,000 arrived in the three days following election day.
9 According to records entered by local election clerks, 1,022 arrived one day after
10 election day, 1,217 arrived two days after election day, and 977 arrived three days
11 after election day. These numbers could understate the total received in these
12 three days to the extent clerks did not record ballots delivered during those three
13 days until later dates. With turnout and absentee ballot numbers expected to
14 double or even triple in November, tens of thousands of Michigan citizens could
15 be disenfranchised by mail delays that deliver ballots even just one day or a few
16 days after Election Day.

17 I declare under penalty of perjury under the laws of the State of Michigan
18 and the United States that the foregoing is true and correct.

19 DATED this 11th day of September, 2020, at Detroit, Michigan.

20 

21 _____
22 JOCELYN BENSON
 Secretary of State